REMARKS

Reconsideration of this application in light of the amendments and following remarks is respectfully requested.

Status of the Claims

Claims 23-28 and 30-42 are pending. Claim 29 has been canceled without prejudice or disclaimer of the subject matter recited therein. Claims 23, 34, and 42 have been amended. No new matter has been added.

Claim Rejections under 35 U.S.C. § 103

Claims 23-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,606,315 to Gaskins et al. ("Gaskins"), in view of U.S. Patent No. 6,243,809 to Gibbons. Claim 29 has been cancelled, thereby rendering this rejection moot with respect to claim 29.

Applicants have amended independent claim 23, to recite the features of claim 29 concerning a filter driver and further clarify the configuration of the filter driver and the processes performed thereby. Specifically, claim 23 has been amended to recite that the system includes "a filter driver configured to intercept read/write operations to the memory of the electronic device and interact with the acquired portion of the memory based on the intercepted read/write operations independent of the operating system."

Applicants submit that neither Gaskins nor Gibbons, alone or in combination, disclose all of the features of the claimed invention as amended.

Gaskins is directed to a system for securing protected data stored in an electronic module that "allows non-sensitive data to be accessed by external communication tools, but prohibits access to the protected data unless a password is first entered." (Gaskins, Abstract). The system includes a

module having a Serial Communication Interface (SCI) that receives messages from external tools (e.g., field service diagnostic tools). (Gaskins, col. 3, lines 22-28 and lines 48-51). The tools issue codes to the module which are interpreted as read/write requests to a memory location and routed to a security logic program that filters the messages based on whether the message concerns sensitive data. (Gaskins, col. 3, lines 59-62).

The Examiner acknowledges that Gaskins does not disclose acquiring memory independent of an operating system, but contends that Gibbons discloses this feature. (Detailed Office Action, item 4, page 3). Applicants respectfully disagree. Applicants further submit that Gaskins does not disclose interacting with the memory of the device independent of the operating system as recited by amended claim 23.

Gibbons discloses a method of "flashing and reading a non-volatile memory . . . independently of its operating system." (Gibbons, col. 1, lines 8-11; col. 2, lines 31-33). According to Gibbons, an image buffer is allocated in a volatile memory of the computer and loaded with a portion of the new non-volatile memory image. The image buffer is not allocated independent of the Operating System. (Gibbons, col. 6, lines 34-37). The system is then placed in system management mode. (Gibbons, Abstract) Either "the non-volatile memory or a volatile memory of the computer system store a driver for flashing a non-volatile memory image to the non-volatile memory." (Gibbons, col. 2, lines 46-50). The allocated image buffer is located, and using the driver for flashing the non-volatile memory, the non-volatile memory is flashed with the data in the image buffer. (Gibbons, Abstract).

Gibbons fails to disclose acquiring device memory and interacting with the device memory (i.e., performing read/write operations) independent of the operating system. Gibbons merely discloses using a portion of freely accessible memory as intermediate access to the non-volatile memory. The non-volatile memory that is accessed independent of the operating system is not allocated independent of the OS nor are read/write operations processed independent of the

operating system. Any access to the non-volatile memory requires the system to enter system management to flash the memory.

Thus, the combination of Gaskins and Gibbons would merely provide access control to flash a non-volatile memory with a non-volatile memory image stored in volatile memory. The combination does not disclose or suggest acquiring device memory independent of the operating system and controlling access and processing read/write operations to the device memory independent of the operating system. Therefore, for at least the reasons discussed above, claim 23 is patentably distinguishable over the combination of Gaskins and Gibbons.

Claims 34 and 42 have been amended similarly to claim 23. Thus, for at least the reasons discussed above with respect to claim 23, claims 34 and 42 are patentable over the combination of Gaskins and Gibbons.

Claims 24-28 and 30-33 depend from claim 23. Claims 35- 41 depend from claim 34. Therefore, at least by virtue of their dependency from their respective base claims, claims 24-28, 30-33, and 35-41 are patentable over the combination of Gaskins and Gibbons.

CONCLUSION

Each and every point raised in the Office Action dated November 14, 2007 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 23-28 and 30-42 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: May 14, 2008

Respectfully submitted,

By _____
Pierre R. Yanney
Registration No.: 35,418
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant